

STAND. COM. REP. NO. **2591**

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 2367
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2367, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PRODUCTION OF RECORDS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify chapter
806D, Hawaii Revised Statutes, by:

- (1) Amending the definition of "recipient" to clarify that an out-of-state recipient who is issued criminal process must have conducted business or engaged in transactions or activities occurring at least in part in Hawaii;
- (2) Clarifying that criminal process issued by or in another state:
 - (A) May be served upon a person or business located in Hawaii, but not a government agency;
 - (B) Is for the production of records in the actual or constructive possession of that person or business located in Hawaii; and
 - (C) Is based on a pending criminal investigation or prosecution in that other state;



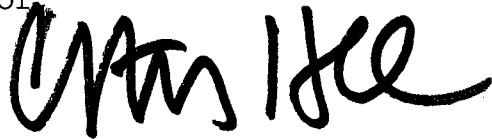
- (3) Specifying the circumstances under which certain persons or businesses located in Hawaii may be served criminal process issued by or in another state; and
- (4) Specifying the information the service of criminal process issued by or in another state must include.

Your Committee received testimony in support of this measure from the Department of the Attorney General; Department of the Prosecuting Attorney, City and County of Honolulu; and Police Department, City and County of Honolulu.

Your Committee finds that Act 325, Session Laws of Hawaii 2012, codified as chapter 806D, Hawaii Revised Statutes, created a criminal long arm statute to authorize Hawaii courts to order the production of records, including electronic records, held by entities outside of the State for criminal matters. Prior to the enactment of chapter 806D, Hawaii Revised Statutes, out-of-state entities could not be compelled to comply with service of process in criminal matters issued by Hawaii courts. However, as the Department of the Attorney General notes in testimony, several issues have arisen out of this law, including a lack of a nexus requirement between a Hawaii recipient of process and the service-issuing state, confusion regarding the use of certain terms, and the potential for other states to issue process in an attempt to compel government agencies to disclose protected records. This measure corrects these issues and improves the application of the criminal process records law.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2367, S.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor.



CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2367, SD1	Committee Referral: PSM, JDL	Date: 2/18/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood				✓
IHARA, Jr., Les	✓			
SOLOMON, Malama	✓			
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"> Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>				

*Only one measure per Record of Votes